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IN THE

Supreme Court of the United States

October Term, 1957

No. [redacted] 243

KITTIEBELL G. MAJESIC,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

PETITIONER'S REPLY BRIEF

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IN THE

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No. 1143

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Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

PETITIONER'S REPLY TO THE BRIEF OF THE UNITED STATES IN OPPOSITION TO THE GRANTING OF THE WRIT OF CERTIORARI

The petitioner has deemed it necessary in order to get the true facts before this Court to file this reply brief.

The brief of the government relies principally on the grounds that the petitioner failed to exhaust administrative remedies. In the opinion of the Court of Claims (A. 10) it is stated that the Civil Service Commission is set up to hear grievances of employees, and that the petitioner could have appealed to that Commission. In making this statement, the Court below overlooked the fact that the petitioner was not a veteran preference eligible and not entitled to appeal to the Commission except

for procedural errors. The Civil Service Commission had no authority under the law to go into the facts of petitioner's case or order the reinstatement of the petitioner except for procedural errors. In plain words, the Civil Service Commission had no authority under the law to consider the charges against the petitioner. It could only check to see that the provisions of Title 5, U.S.C. 652 relative to the charges were complied with as required by that statute.

The petitioner did appeal to the Civil Service Commission before and after the charges were filed.

It is insisted that she also had a right to show that the letter of resignation signed by her was not written by her but signed only under duress.

The government's brief relies on the defense of laches. It contended that the petitioner waited four and one-half years before prosecuting her claim. This is not a correct statement of fact. No person could have been more diligent in prosecuting her claim. The petitioner was not cleared of disloyalty charges until March 3, 1953 which was two years after the date she was discharged from the service, and the remainder of the time up until the suit was filed was spent by the petitioner in trying to clear her records in accordance with her clearance of the charges of disloyalty which occurred, as stated above, on March 3, 1953. There is no merit to the contention that the petitioner's cause of action was barred by laches.

Respectfully submitted.

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